

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:08-CR-00023-F-1

No. 5:14-CV-00308-F

ANTONIO DONTEZ SCOTT,
Petitioner,

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v.

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UNITED STATES OF AMERICA,
Respondent.

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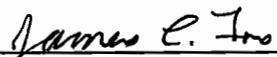
O R D E R

This matter is before the court on the Government's Motion to Reconsider [DE-49]. The Government notes that it does not ask the court to revisit its ultimate conclusion or its decision to dismiss Scott's motion. *Id.* at 1. The Government asks the court to reconsider its finding that *Descamps v. United States*, 133 S. Ct. 2276 (2013), is not retroactively applicable on collateral review. Mem. Supp. Mot. Reconsider [DE-50] at 1. The Government contends that it did not raise a non-retroactivity defense based on *Teague v. Lane*, 489 U.S. 288 (1989). *Id.* at 2.

In this case, the court raised the issue of *Descamps*'s retroactivity *sua sponte*. The court may raise retroactivity *sua sponte*. *Robinson v. United States*, Nos. 4:10-cr-559-RBH-1, 4:14-cv-364-RBH, 2015 WL 1524406, at 6 n. 4 (D.S.C. April 3, 2015) (citing *Day v. McDonough*, 547 U.S. 198, 205-06 (2006); *United States v. Coleman*, 219 F. App'x 139, 141 (3d Cir. 2007)). Consequently, the Government's Motion to Reconsider [DE-49] is DENIED.

SO ORDERED.

This the 2 day of February, 2016.



James C. Fox
Senior United States District Judge